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No.: ICC-01/04-01/06

Date: 28 October 2010

TRIAL CHAMBER I

Before: Judge Adrian Fulford, Presiding Judge
Judge Elizabeth Odio Benito, Judge
Judge René Blattmann, Judge

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. THOMAS LUBANGA DYILO***

Public Redacted Version

Public Redacted Version of 'Prosecution's Withdrawal of Requests for Non-Disclosure in respect of Three Documents' filed 27 October 2010

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims

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REGISTRY

Registrar

Defence Support Section

Ms Silvana Arbia

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Background

1. On 26 January 2010, the Prosecution filed a request for authorisation for the non-disclosure of the name [REDACTED] in a witness-related expense document related to intermediary DRC-OTP-WWWW-0316.¹
2. In the same filing on 26 January 2010, the Prosecution requested ² authorisation for the temporary non-disclosure of the name [REDACTED] in a witness-related expense document related to intermediary DRC-OTP-WWWW-0316. The request was based on Regulation 42 of the Regulations of the Court and Trial Chamber II's order for provisional redactions to his identity.³
3. On 3 March 2010, the Prosecution filed a request for authorisation for the non-disclosure of the name [REDACTED] in an expense document related to Defence witness DRC-D01-WWWW-0004.⁴
4. Decisions on these three requests are pending. The Prosecution hereby withdraws its requests for authorisation for non-disclosure in respect of these three names.

Submissions

5. As regards the name [REDACTED], on 8 October 2010 the Defence requested all information in the possession of the Prosecution related to a person named [REDACTED]. The Prosecution assessed that a screening note related to a person whose nickname was identified as [REDACTED] may be responsive to the Defence request. The Prosecution disclosed the

¹ Authorisation for non-disclosure was requested in ICC-01/04-01/06-2266-Conf-Exp (see in particular paras. 23-24; line #66 in the chart in Annex A and Annex 66).

² Authorisation for non-disclosure was requested in ICC-01/04-01/06-2266-Conf-Exp (see in particular paras. 13-14; line #71 in the chart in Annex A and Annex 71).

³ ICC-01/04-01/07-1728-Conf-Exp, page 13.

⁴ Authorisation for non-disclosure was requested in ICC-01/04-01/06-2314-Conf-Exp-Corr (see in particular paras. 8-9; line #4 in the chart in Annex A and Annex 4).

screening note and the identity of the individual screened. In these circumstances, redaction of the name in the separate witness-related expense document is no longer necessary, and the Prosecution therefore withdraws its application for authorisation for non-disclosure in respect of this document.⁵

6. As regards the name [REDACTED], protective measures have been put in place for this individual and his identity can be disclosed to the Defence. Since the time of the Prosecution's application, Trial Chamber II has lifted redactions to his identity in the *Katanga* case.⁶ Accordingly, the Prosecution withdraws its request for redactions to his name in the witness-related expense document.
7. As regards the name [REDACTED], the Prosecution disclosed his name to the Defence in another document related to intermediary DRC-OTP-WWWW-0316, and therefore does not maintain its request for authorisation for non-disclosure in these circumstances.⁷
8. The Prosecution files on a confidential basis – Prosecution and Defence Only – in order to protect the identity of persons named in confidential documents. The Prosecution will file a public redacted version forthwith.

Conclusion

9. Based on the foregoing, the Prosecution hereby notifies the Trial Chamber of the withdrawal of its request for authorisation for redactions to three

⁵ The Prosecution notes that two other redactions were applied to the document to protect information falling under internal work product. The Prosecution has maintained these redactions pursuant to Rule 81(1) in its re-disclosure of the document to the Defence.

⁶ Oral decision of Trial Chamber II, 8 June 2010: ICC-01/04-01/07-T-151-CONF-FRA, page 39, line 25 to page 41, line 6.

⁷ The Prosecution notes that one other redaction was applied to the document to protect information falling under internal work product. The Prosecution has maintained these redactions pursuant to Rule 81(1) in its re-disclosure of the document to the Defence.

documents. The Prosecution has re-disclosed the documents in question to the Defence without these redactions.



Luis Moreno-Ocampo
Prosecutor

Dated this 28th day of October 2010
At The Hague, The Netherlands